

Attachment 4

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**HAND DELIVERY**

March 30, 1998

Chairman Daniel Pennington  
California Integrated Waste Management Board  
8800 Cal Center Drive  
Sacramento, CA 95826

**RE: Redwood Landfill, Marin County**

Dear Chairman Pennington:

On behalf of Redwood Landfill, Inc., ("Redwood"), I am writing to you, in your capacity as Chairman of the California Integrated Waste Management Board ("CIWM"), in order: (1) to appeal a failure of the Marin County Local Enforcement Agency Hearing Panel to consider a request for review and/or (2) to appeal a determination by Marin County staff not to direct its Hearing Panel to hold a public hearing. (Pub. Resources Code, § 45030, subd. (a).)

This request for an appeal to the CIWMB arises out of an exchange of correspondence between Redwood Landfill and the Division of Environmental Health Services ("Environmental Health Services") within the Marin County Community Development Agency. In Marin County, Environmental Health Services acts as the "Local Enforcement Agency" ("LEA") of the CIWMB. On March 10, 1998, Edward J. Stewart, Chief of Marin County Environmental Health Services, sent to Doug Diemer, Site Manager for the Redwood Landfill, a letter, attached hereto as Exhibit A. In response, on March 12, 1998, on behalf of Redwood, I sent to Mark J. Riesenfeld, Community Development Director, County of Marin, a letter, attached hereto as Exhibit B. In response, on March 27, 1998, Patrick K. Faulkner, County Counsel of Marin County, sent to me a letter responding to my letter of March 12, 1998, attached hereto as Exhibit C. These three letters convey the essence of the basis for our appeal. In a future letter, we will also provide necessary exhibits and further information for your review.

The facts pertaining to this appeal may be succinctly summarized as follows. Mr. Stewart's March 10th letter to Redwood states that "the LEA directs you to discontinue the use of sludge derived alternative daily cover." At least according to Mr. Faulkner's later interpretation, Mr. Stewart's March 10th letter purports to rescind permission previously granted to Redwood to

36-24

conduct the activity. In response, my March 12th letter requested "that 'the enforcement agency . . . hold a hearing . . . in accordance with the requirements set forth in [Public Resources Code] Section 44310.'" (Pub. Resources Code, § 44307.) In addition, my March 12th letter stated that "this 'request for a hearing shall stay the effect of . . . the order pending completion of all appeals.'" (Pub. Resources Code, § 45017, subd. (a)(1).) On March 27th, Mr. Faulkner responded that "the LEA cannot accede to your request for such a hearing."

My letter of March 12th details the basis for Redwood Landfill's past and continued use of sludge-derived alternative daily cover. I will reserve for the proper time a fuller explication of the facts on this point. Here, however, I would like to emphasize only that CIWMB review is imperative in order to obtain a procedurally fair resolution of the underlying matter.

Mr. Faulkner's letter of March 27th expresses disagreement with Redwood's position. Mr. Faulkner's letter does serve to bring the views of Environmental Health Services into clearer focus. It does not alter, however, the stay effectuated by my earlier request for hearing panel review. In the wake of the LEA's refusal to allow Hearing Panel review of its command that Redwood cease use of sludge-derived alternative daily cover, Redwood must now seek review by invoking the appeal provisions of the Public Resources Code.

Public Resources Code section 45030 provides as follows:

"(a) Any aggrieved person may appeal to the board . . . to review the petitioner's request in the instance of a failure of a hearing panel to render a decision or consider the request for review, or a determination by the governing body not to direct the hearing panel to hold a public hearing, under the following circumstances:

- (1) Within 30 days from the date of issuance of a written decision by a hearing panel.
- (2) Within 30 days from the failure of a hearing panel to render a decision or consider a petitioner's request.
- (3) Within 30 days from the date that the governing body determines not to direct the hearing panel to hold a public hearing."

Public Resources Code section 45031 provides:

"Within 30 days from the date that an appeal is filed with the board, the board may do any of the following:

- (a) Determine not to hear the appeal if the appellant fails to raise substantial issues.

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36-25

Chairman Pennington  
March 30, 1998  
Page 3

(c) Determine to accept the appeal and to decide the matter on the basis of the record before the hearing panel, or based on written arguments submitted by the parties, or both.

(d) Determine to accept the appeal and hold a hearing, within 60 days, unless all parties stipulate to extending the hearing date."

For the record, I wish to state with specificity that the stay created by my letter of March 12th continues. If it is necessary to renew the stay in the wake of Mr. Faulkner's March 27th letter, then this letter requesting CIWMB review constitutes such a renewal.

Thank you for your attention to this matter.

Sincerely,



James G. Moose

cc: Elliott Block  
Ralph Chandler  
Douglas G. Sobey  
Douglas Diemer  
Duane Woods  
Patrick K. Faulkner

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36-26

